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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,223	09/16/2003	Stephen J Brown	7553.00095 / 03-0900	2222
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HEALTH HERO NETWORK, INC. 2400 GENG ROAD, SUITE 200 PALO ALTO, CA 94303			EXAMINER FRENEL, VANEL	
			ART UNIT 3687	PAPER NUMBER
			MAIL DATE 10/29/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/605,223	Applicant(s) BROWN, STEPHEN J	
	Examiner VANEL FRENEL	Art Unit 3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,9,11-19,21-49,51,53,55-64 and 66-98 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,9,11-19,21-49,51,53,55-64 and 66-98 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Amendment filed on 6/23/09. Claims 5, 7, 8, 10, 20, 50, 52, 54 and 65 have been cancelled. Claims 1-4, 6, 9, 11-19, 21-46, 48-49, 53, 55-63, 66, 68-78 and 80-90 have been amended. Claims 91-98 have been newly added. Claims 1-4, 6, 9, 11-19, 21-49, 51, 53, 55-64 and 66-98 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6, 9, 11-19, 21-49, 51, 53, 55-64 and 66-98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu et al. (4,803,625) and Lee (4,838,275) and further in view of Kirk et al. (5,390,238).

As per claims 1-4, 6, 9, 11-19, 21-49, 51, 53, 55-64 and 66-98 Fu discloses a networked health-monitoring system comprising: a plurality of remote patient sites (See Fu, Col.5, lines 4-52), each site including at least one display (See Fu, Col.5, lines 53-68) "configured to be temporarily affixed to a patient and to operate in a monitoring mode"; a data management unit configured to facilitate collection of patient health-related data (See Fu, Col.8, lines 46-60); a memory and stored program instructions for generating health-monitoring related information on the display (See Fu, Col.5, lines 53-68).

Fu does not explicitly disclose at least one central server connectable for communication with the data management units at “said” patient sites to receive patient health-related data collected at said remote patient sites, wherein the system is configured to produce reports, including standardized reports, from said received data.

However, these features are known in the art, as evidenced by Lee. In particular, Lee suggests that the system having at least one central server connectable for communication with the data management units at said patient sites to receive patient health-related data collected at said remote patient sites, wherein the system is configured to produce reports, including standardized reports, from the received data (See Lee, Fig. 1; Col.11, lines 48-68; Col.13, lines 42-48).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Lee within the system of Fu with the motivation of providing home medical surveillance and response, for use by many patients. The method includes the step of routinely obtaining a multiplicity of measurements related to the state of health of each patient, by remote sensing equipment, while the patient is at home (See Lee, Col.6, lines 66-68 to Col.7, line 4).

In addition, Fu in view of Lee disclose all the limitations above. The combination of Fu and Lee does not explicitly disclose that the system has wherein said central server system is configured to (i) analyze said patient health-related data, (ii) process said patient health-related data, (iii) produce reports, including standardized reports, from the received said patient health-related data, and (iv) transmit said reports to a designated health care professional.

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However, these features are known in the art, as evidenced by Kirk. In particular, Kirk suggests that the system having wherein said central server system is configured to (i) analyze said patient health-related data (See Kirk, Col.3, lines 43-68), (ii) process said patient health-related data, (iii) produce reports, including standardized reports, from the received said patient health-related data (See Kirk, Fig.3, Col.4, lines 47-68 to Col.5, line 21), and (iv) transmit said reports to a designated health care professional (See Kirk, Fig.3, Col.4, lines 47-68 to Col.5, line 21).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kirk within the teachings of Fu and Lee with the motivation of providing a method for supporting the health of a patient using an electronic health support unit is contemplated, the method comprising the steps of inputting a medication delivery schedule to the health support unit, synthesizing speech in the health support unit to inquire a wellness status of the patient at predetermined intervals and to remind the patient to take medication as scheduled, recognizing patient speech in the health support unit, recording patient data concerning the patient's compliance with the medication delivery schedule and the patient's wellness check results, and transmitting patient data to a central network server for access by the patient's health care provider (See Kirk, Col.2, lines 16-30).

As per claim 2, Fu in view of Lee discloses the system of claim 1 (as described above). Lee discloses wherein said system is configured to allow a health care

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professional to select which of a plurality of standardized reports is produced (See Lee, Col.13, lines 5-15).

As per claim 3, Fu and Lee disclose the system of claim 1 (as described above). Lee discloses said system wherein the reports use graphs and/or icons (See Lee Co1.13, lines 5-16).

As per claim 4, Fu and Lee disclose the system of claim 1 (as described above. Fu discloses the system wherein said reports can be generated periodically (See Fu, Co1.5, lines 19-41).

As per claim 6, Fu discloses the system wherein the system is configured to cause the presentation of at least one report on the display at a remote patient site (Col. 5, lines 15-38).

As per claim 9, Lee discloses the system wherein said system can display "said reports, wherein said reports further comprises formatted" statistical or trend information to the patient (See Lee, Co1.13, lines 12-17).

As per claim 11, Lee discloses the system further comprising at least one health care professional computer, remotely located from and in signal communication with said central server (See Lee, Co1.5, lines 64-68 to Co1.6, line 25).

As per claim 12, Fu discloses the system further comprising at least one health-monitoring device configured to monitor at least one patient health condition at least one remote patient site and to communicate data related to the monitored condition to said central server (See Fu, Co1.5, lines 53-68).

As per claim 13, Lee discloses the system wherein said data management unit facilitates collection of said patient health-related data by receiving data related to the monitored condition from at least one of said health-monitoring devices (See Lee, Co1.5, lines 64-68 to Co1.6, line 25).

As per claim 14, Fu discloses the system wherein at least one of said health-monitoring devices includes one or more of the set consisting of a blood glucose monitor; a peak flow meter; a blood pressure monitor; a pulse monitor; and a body temperature monitor (See Fu, Co1.5, lines 7-14).

As per claim 15, Fu discloses the system wherein said data management unit is configured said patient to facilitate collection of health-related data entered by a patient at the remote patient site using buttons, keys or switches (See Fu, Col.2, lines 16-43).

As per claim 16, Fu discloses the system wherein said data management unit is physically separate from said display (See Fu Col.6, lines 46-54).

As per claim 17, Fu discloses the system wherein said memory and said display form a part of one of said health-monitoring devices (See Fu, Col.5, lines 1-15).

As per claim 18, Lee discloses the system wherein said display is in a handheld device (See Lee, Co1.11, lines 24-34).

As per claim 19, Fu discloses the system wherein said handheld device is capable of displaying pictorial health-monitoring related information (See Fu, Col.5, lines 1-15) one of the pictorial monitoring related information and animated health-monitoring related information.

As per claim 21, Lee discloses the system wherein said memory is a program cartridge (See Lee, Co1.11, lines 49-63).

As per claim 22, Fu discloses the system wherein said remote patient sites further include at least one personal computer connected to said data management unit (See Fu, Co1.10, lines 1-14 and lines 28-61).

As per claim 23, Fu discloses the system wherein said system is configured to transmit a message for display on at least one display (See Fu, Co1.6, lines 46-54).

As per claim 24, Fu discloses the system wherein said message includes step-by-step instructions (See Fu Co1.10, lines 1-14 and lines 28-61).

As per claim 25, Lee discloses the system wherein said message includes results of a test (See Lee, Co1.16, lines 39-43).

As per claim 26, Lee discloses the system wherein said message includes a diagnostic indication related to whether a test has proceeded in a normal fashion (See Lee Co1.16, lines 39-43).

As per claim 27, Lee discloses the system wherein said message is a multi-line message (See Lee Co1.16, lines 39-43).

As per claim 28, Lee discloses the system wherein said message is a health care professional selected message (See Lee Co1.16, lines 39-43).

As per claim 29, Lee discloses the system wherein said health-care professional generates said selected message (See Lee Co1.16, lines 39-43).

As per claim 30, Kirk discloses the system wherein the message is educational or motivational (The Examiner interprets portable device to be a form of educational See Kirk, Fig.3; Col.3, lines 43-68).

As per claim 31, Fu discloses the system wherein said system is configured to cause said message to be transmitted to a specific patient (See Fu, Co1.5, lines 53-68).

As per claim 32, Fu discloses the system wherein said system is configured to cause said message to be transmitted automatically to a patient (See Fu, Co1.5, lines 53-68).

As per claim 33, Fu discloses the system wherein said system enables a patient to choose when to receive said message (See Lee Co1.16, lines 39-43).

As per claim 34, Fu discloses the system wherein said messages can be stored before being transmitted to a patient. (See Lee Co1.5, lines 53-68).

As per claim 35, Fu discloses the system wherein said system is configured to allow a patient to control the display of information using at least one menu (See Fu, Co1.5, lines 6-15; Co1.10, lines 1-14).

As per claim 36, Fu discloses the system wherein said menu allows said patient to select any one of the operational modes from the set consisting of: a display mode for displaying relevant information (See Fu, Col.5, lines 53-68); an input mode for providing information (See Fu, Col.5, lines 53-68); and a communications mode for establishing a

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link with the central server (See Fu, Co1.1, lines 43-64).

As per claim 37, Fu discloses the system wherein said menu allows a patient to select said monitoring mode in which at least one of said health-monitoring devices is used (See Fu, Col.6, lines 46-54).

As per claim 38, Lee discloses the system wherein said menu allows said patient to display messages or instructions from a health care professional (See Lee, Col.5, lines 64-68 to Col.6, line 25).

As per claim 39, Lee discloses the system wherein said system is configured to enable a patient to respond to information on said display by using a cursor or other indicator positioned at a selected item (See Lee, Co1.13, lines 5-16).

As per claim 40, Fu discloses the system wherein said system is configured to enable programs to be provided, from said central server for storage in said memory and execution at said remote patient site (See Fu, Col.5, lines 53-68; Col.6, lines 52-57).

As per claim 41, Lee discloses the system wherein a patient can indicate user experienced symptoms to said system (See Lee Co1.16, lines 39-43).

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As per claim 42, Lee discloses the system wherein said system can capture quantitative measurements (See Lee, Co1.16, lines 39-43).

As per claim 43, Lee discloses the system wherein said system can capture medication data (See Lee, Co1.16, lines 39-43).

As per claim 44, Lee discloses the system wherein said collected patient health-related data includes time data (See Lee, Co1.16, lines 39-43).

As per claim 45, Fu discloses the system wherein said healthcare professional computer receives said reports after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user (See Fu, Co1.5, lines 44-62).

Claims 47-49, 51, 53, 55-64, and 66-89 recite the underlying process steps of the elements of claims 2-4, 6, 9, 11-19 and 21-45, respectively. As the various elements of claims 2-4, 6, 9, 11-19 and 21-45 have been shown to be either disclosed by or obvious in view of the collective teachings of Fu, Lee and Kirk, it is readily apparent that the system by the applied prior art performs the recited underlying functions. As such, the limitations recited in claims 47-49, 51, 53, 55-64, and 66-89 are rejected for the same reasons given above for system claims 2-4, 6, 9, 11-19 and 21-45, and incorporated herein.

As per the newly added claim 91, Kirk discloses the system wherein said data management unit is contained within said handheld device (See Kirk, Fig.3; Col.3, lines 43-68).

As per the newly added claim 92, Kirk discloses the system wherein said system is configured to include wireless data transmission between said handheld device and said data management unit (See Kirk, Fig.3; Col.3, lines 43-68).

As per the newly added claim 93, Kirk discloses the system wherein said system is configured to include wireless data transmission between said data management unit and said health-monitoring device (See Kirk, Fig.3; Col.3, lines 43-68).

As per the newly added claim 94, Kirk discloses the system wherein said system further comprises at least one health-monitoring device configured to monitor at least one patient health condition at least one remote patient site and to communicate data related to said monitored patient health condition to said central server and said system is configured to include wireless data transmission between said data management unit and said health-monitoring device (See Kirk, Fig.3; Col.3, lines 43-68).

As per the newly added claim 95, Kirk discloses the method wherein said data management unit is contained within said handheld device (See Kirk, Fig.3; Col.3, lines

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43-68).

As per the newly added claim 96, Kirk discloses the method comprising wireless communication between said handheld device and said data management unit (See Kirk, Fig.3; Col.3, lines 43-68).

As per the newly added claim 97, Kirk discloses the method comprising wireless communication between said data management unit and said health- monitoring device (See Kirk, Fig.3; Col.3, lines 43-68).

As per the newly added claim 98, Kirk discloses the method further comprising at least one health-monitoring device configured to monitor at least one patient health condition at least one remote patient site and to communicate data related to the monitored patient health condition to said central server and further comprising wireless data transmission between said data management unit and said health-monitoring device (See Kirk, Fig.3; Col.3, lines 43-68).

4. Applicant's arguments filed on 6/23/09 with respect to claims 1-4, 6, 9, 11-19, 21-49, 51, 53, 55-64 and 66-98 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not the applied art teaches health support system (5,390,238).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent

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Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanel Frenel/

Primary Examiner, Art Unit 3687

October 19, 2009